

Petition Number: 1011-VU-05

Subject Site Address: 16708 North US 31

Petitioner: Robert J. Esler

Request: The Appellant is requesting a Variance of Use from the Westfield-Washington Zoning Ordinance (WC 16.04.070, 2) to allow an automobile repair facility in the US 31 Overlay Zone.

Current Zoning: Enclosed Industrial (EI)

Current Land Use: Vacant

Approximate Acreage: 5.65 acres

Related Cases: None

Zoning History: 73-V-2; Variance to allow limited outdoor storage; approved
79-V-5; Variance to allow outdoor storage; approved

Exhibits: 1. Staff Report
2. Aerial Location Map
3. Aerial Improvements Map
4. Appellant's Application

Staff Reviewer: Andrew Murray

Petition History

This petition will receive a public hearing at the November 9 2010 Board of Zoning Appeals meeting.

Property History

The 5.65-acre subject property (the "Property") is the former site of two lumber companies. The Board of Zoning Appeals approved a variance request on June 19, 1973 (73-V-2) to permit intermittent outside storage of framing lumber at times when lumber inventory exceeds inside storage capacity.

On April 9, 1979, the Board of Zoning Appeals approved a variance (79-V-5) request to permit outdoor, unenclosed storage of lumber and building materials with the conditions that the parking plan be revised from 42 proposed parking spaces to 50 parking spaces and any future signs placed on the site must conform to the Sign Ordinance. The Property has not been used for active business operations for several years.

Analysis

The Appellant is requesting a use variance to allow an "Automobile Service and Repair" (the "Proposed Use") on the Property located in the US Highway 31 Overlay Zone. The underlying zoning district is Enclosed Industrial (EI). The use classification "Automobile Service and Repair" is not a permitted use within the US Highway 31 Overlay Zone. The Property is located within an area that is identified in the Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") as the "Employment Corridor". Adjacent parcels to the North, South, and West are zoned EI and fall within the US 31 Overlay Zone. The property across US 31 (to the East) is zoned General Business-Planned Development (GB-PD) and falls within the US 31 Overlay Zone.

The Appellant wishes to open an Auto Service and Repair Business on the Property. Previously occupied by a lumber company, the Property has been vacant for several years and has begun to showing signs of deterioration. The Proposed Use is not consistent with the long-term vision for the US 31 corridor as described in the Westfield-Washington Comprehensive Plan. In following the long-term plan for the US 31 Corridor, employment-generating, retail, and office uses are contemplated as being appropriate land uses for the US 31 Corridor. The Appellant fully understands the long-term land use plan for the US 31 Corridor and the extensive construction changes being proposed for US 31 and the 169th Street intersection. The key factor to analyzing this variance request is the schedule of progress made towards the US 31 construction. Construction of the 169th Street/ US 31 intersection is scheduled to begin in 2016.

The Appellant plans to make several improvements to the Property, including paving, patching, and striping to the access point and parking area. The Appellant also plans to make any repairs to the structure as needed, as well as paint the exterior of all structures on the Property.

Staff recommends placing a time limit on any approval of this request. The time limit should be related to the US 31 construction timeline. A time limit would allow the Property to be used on a temporary basis and not conflict with the long-term vision for the US 31 Corridor. As a result, the Board and the Appellant will have the opportunity to revisit and re-evaluate the proposal prior any extensions being granted for this use.

Procedural

A Board of Zoning Appeals shall approve or deny variances of use from the terms of the zoning ordinance. The Board may impose reasonable conditions as a part of its approval. A variance may be approved under Ind. Code § 36-7-4-918.4 only upon a determination in writing that:

Standards for Use Variance Request

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that the Proposed Use would be injurious to the public health, safety, morals, and general welfare of the community. The aesthetic improvements to the Property will create a more targeted area to economically develop this portion of the corridor and will not be harmful to the public health, safety, morals, and general welfare of the community.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely that the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The Proposed Use is consistent with adjacent uses.

3. *The need for the variance of use arises some condition particular to the property involved:*

Finding: The US 31 Corridor Overlay Zone does not permit the Proposed Use. The Proposed Use is not consistent with the Comprehensive Plan's long-term vision for the highway corridor; however, a short-term use of the property while the US 31 construction progresses will likely have a positive impact on the community. The Proposed Use is an ideal short-term use for the Property and it is unlikely that the site would be desirable for the contemplated, appropriate land uses for the US 31 corridor until the construction has completed.

4. *The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance of use is sought:*

Finding: The strict application of the zoning ordinance would likely result in the Property remaining vacant until the completion of the US 31 project. Until US 31 is completed, the Property will likely be undesirable for uses which comply with the use restrictions applicable to the Property today.

5. *The approval does not interfere substantially with the comprehensive plan:*

Finding: The long term plan for the US 31 Corridor is unlikely to be fulfilled in this area due to the impending US 31 construction project. If conditioned by a time limit, the temporary nature of the proposed use would not interfere with the Comprehensive Plan's vision for the US 31 corridor.

Recommendations

Staff recommends that the Board of Zoning Appeals approve the request for variance based on the findings of this report and with the following conditions:

1. That the approval of this variance shall expire on December 31, 2015.
2. That any request to extend the time limit for this variance shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2015.
3. That a new application shall be submitted by June 30, 2015 to the Community Development Department if an extension to the time limit for the variance is requested.

APM